

A BILL

entitled

ELECTRICITY AMENDMENT ACT 2026

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WHEREAS it is expedient to amend the Electricity Act 2016 to enable the integrated resource planning process to be suspended and reconstituted in the public interest; to provide, expressly, for consumer affordability protections to be an integral part of the Integrated Resource Plan; and to make related amendments;

Be it enacted by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Electricity Act 2016 (the "principal Act"), may be cited as the Electricity Amendment Act 2026.

Amends section 2

2 In section 2 of the principal Act, insert the following definition in the correct alphabetical position—

“integrated resource planning process” or “IRP process” means the process by which an Integrated Resource Plan is requested, submitted and considered for approval under sections 40 to 44;”.

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Amends section 8

3 In section 8(4) of the principal Act in the opening words, delete “The Minister” and substitute “Without prejudice to section 13A, the Minister”.

Inserts new section 13A

4 After section 13 of the principal Act insert—

“Minister’s special powers; public interest

13A (1) The Minister may make an order for the purposes set out in Part 8A if the Minister is of the opinion that it is in the public interest to do so.

(2) The Minister may, under an order referred to in subsection (1), direct the Authority to take such actions only as are necessary to give effect to that order, and the Authority shall comply with those directions.

(3) A direction given for the purposes of subsection (2), shall not constitute a “Ministerial direction” under this Act and as defined in the Regulatory Authority Act 2011.

(4) This section applies notwithstanding anything to the contrary in this Act or the Regulatory Authority Act 2011.”.

Inserts new section 39A

5 After section 39 of the principal Act insert—

“General duty to ensure affordability protections

39A In performing their respective functions and obligations under the Act, the Authority and TD&R Licensee shall have a duty to consider consumer affordability in all integrated resource planning and decision-making processes and ensure that consumer affordability protections form an integral part of the Integrated Resource Plan.”.

Amends section 44

6 (1) In section 44 of the principal Act, after subsection (2) insert—

“(3) In any case to which section 45B applies and following the resumption of the IRP process, the Authority, acting in accordance with the regulatory principles and any administrative determinations, may approve the Integrated Resource Plan if it considers that the final draft Integrated Resource Plan is the best approach to meeting the purposes of the Act and complying with Ministerial directions.”.

(2) In consequence of the amendment made by subsection (1) above, delete “section 44(2)” wherever it occurs in sections 30(4)(a), 49(2A) and 49A(3) of the principal Act, and substitute “section 44”.

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Inserts new Part 8A

7 After section 45 of the principal Act insert—

“PART 8A

SUSPENSION AND RECONSTITUTION OF THE IRP PROCESS

Interpretation and application of Part

45A (1) In this Part, unless the context otherwise requires—

“IRP suspension order” means an order made under section 45B;

“part of the IRP process” means any obligation, action or activity provided for under the IRP process;

“period of suspension” means the period specified under an IRP suspension order in accordance with section 45B(2)(b).

(2) For the purposes of this Part—

- (a) a reconstitution of the IRP process includes the restarting of the IRP process or any part of the IRP process;
- (b) the restarting of any part of the IRP process may require the reconsideration of any obligation or deadline and the retaking of any action already taken under the IRP process prior to the period of suspension; and
- (c) the Integrated Resource Plan that is in operation at the time of or immediately prior to the making of an IRP suspension order shall continue in effect until such time that another Integrated Resource Plan is approved and published, in accordance with Part 8, after the expiration of the period of suspension.

(3) This Part shall have effect notwithstanding the completion of any part of the IRP process prior to the making of an IRP suspension order.

Order to suspend and reconstitute the integrated resource planning process

45B (1) The Minister may, in accordance with the powers conferred under section 13A, make an order to suspend and reconstitute any part of the IRP process if, after consulting the Regulatory Authority and the TD&R Licensee, he is of the opinion that—

- (a) continuing the IRP process would pose a risk to the reliability, sustainability or affordability of the energy supply; or
- (b) such action is necessary to ensure consistency between Government policy and the proposed Integrated Resource Plan; and
- (c) continuing the IRP process would be contrary to the public interest.

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(2) An order made under subsection (1) shall specify—

- (a) the reasons for the making of the order;
- (b) subject to section 45C, the period of suspension;
- (c) the part or parts of the IRP process that may be reconstituted;
and
- (d) any directions necessary for the Authority to give effect to the order.

(3) An order made under this section (hereinafter referred to as an “IRP suspension order”) shall be subject to the negative resolution procedure.

Duration of suspension

45C (1) Where the IRP process is suspended pursuant to an IRP suspension order—

- (a) the IRP process shall resume, whether or not reconstituted, upon the expiration of the period of suspension so specified in the order; and
- (b) such period of suspension shall not exceed two years.

(2) The Minister may amend the period of suspension by order published in the Gazette provided that the total period, as amended, does not exceed two years.

(3) An order made under subsection (2) shall not be subject to section 6 of the Statutory Instruments Act 1977.

Authority to give notice of resumption

45D (1) The Authority shall issue a notice, before the period of suspension expires, specifying—

- (a) when the IRP process is to resume;
- (b) any part or parts of the IRP process that have been reconstituted;
- (c) any next steps to be taken in relation to the resumption of the IRP process, whether or not reconstituted; and
- (d) any guidance relating to the resumption of the IRP process.

(2) A notice issued under this section shall be sent to the TD&R Licensee by registered mail or registered electronic mail and published on the official website of the Authority.

(3) A notice or any guidance issued under this section is not a statutory instrument within the meaning of the Statutory Instruments Act 1977.

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Reconstitution of the IRP process

45E Where the IRP process is reconstituted, the Authority and TD&R Licensee shall act in accordance with any Ministerial declaration issued during the period of suspension.

Appeal to Supreme Court

45F (1) The TD&R Licensee or any other person aggrieved by the making of an IRP suspension order under this Part may appeal against such order to the Supreme Court on a point of law or mixed law and fact.

(2) An appeal under this section shall be brought within 21 days after the making of such order or such longer period as the Supreme Court may allow.

(3) Unless the Supreme Court otherwise orders, an appeal under this section shall not have the effect of suspending the order appealed against, pending the determination of the appeal.”.

Amends the Regulatory Authority Act 2011

8 The Regulatory Authority Act 2011 is amended as follows—

- (a) in the subheading under PART 2 after “FUNCTIONS” insert “AND POWERS”; and
- (b) after section 4 insert—

“Powers of the Minister; public interest

4A A Minister shall have such powers in the public interest, in respect of a regulated industry sector for which he is responsible, that are specified in this Act and in sectoral legislation.”.

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EXPLANATORY MEMORANDUM

This Bill amends the Electricity Act 2016 (the “principal Act”) to enable the integrated resource planning process to be suspended and reconstituted in the public interest; to provide, expressly, for consumer affordability protections to be an integral part of the Integrated Resource Plan; and to make related amendments.

Clause 1 provides the citation for the Bill.

Clause 2 amends section 2 of the principal Act to insert the definition of the term “integrated resource planning process” or “IRP process”, as the process by which an integrated resource plan is requested, submitted, and considered for approval under sections 40 to 44 of the principal Act.

Clause 3 amends section 8 of the principal Act to provide that the restriction on the Minister’s power to give Ministerial directions regarding specific matters before the Authority or regarding specific rights or obligations of individual licensees applies without prejudice to new section 13A.

Clause 4 inserts new section 13A into the principal Act to give the Minister special powers to make an order in the public interest under new Part 8A and to give, pursuant to such order, directions to the Authority only as necessary to give effect to that order.

Clause 5 inserts new section 39A into the principal Act to impose an express duty on the Authority and TD&R Licensee to consider consumer affordability in all integrated resource planning and decision-making processes and to ensure that consumer affordability protections form an integral part of the Integrated Resource Plan.

Clause 6 amends section 44 of the principal Act to provide for the consideration and approval by the Authority of the Integrated Resource Plan in cases where, pursuant to section 45B, the integrated resource planning process is suspended and reconstituted. This clause also revises several references to section 44 in the principal Act in consequence of the amendment to section 44.

Clause 7 inserts new Part 8A into the principal Act, which includes new sections 45A to 45F. Part 8A provides for the suspension, reconstitution and resumption of the integrated resource planning process.

Section 45A provides for the interpretation and application of Part 8A namely that: (i) the reconstitution of any part of the IRP process includes the restarting of any part of the IRP process and the reconsideration of any obligation or deadline and the retaking of any action already taken; (ii) the Integrated Resource Plan in operation immediately prior to the making of an order of suspension shall continue in effect until a new Plan is approved and published in accordance with the IRP process after such suspension; and (iii) Part 8A has effect regardless of whether any part of the IRP process is completed prior to any suspension.

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Section 45B enables the Minister to make an order to suspend and reconstitute the IRP process for the public interest reasons set out in such order. This clause requires the Minister to consult the Authority and TD&R Licensee before making such order, specifies the information to be set out in such order, and provides for such order to be made subject to the negative resolution procedure.

Section 45C provides that the period suspension of the IRP process not exceed two years. This clause also enables the order to be amended to revise the period of suspension so specified in the order (subject to the two-year maximum period) by a separate order made by the Minister and published in the Gazette. Finally, this clause provides that an order to amend the suspension period shall not be subject to parliamentary scrutiny.

Section 45D requires the Authority to issue a notice to the TD&R Licensee prior to the expiration of the period of suspension. This clause requires such notice to set out the date of resumption of any part of the IRP process that has been reconstituted, any next steps to be taken in relation to the resumption of the IRP process, and any guidance concerning the same.

Section 45E requires on resumption of the IRP process, as reconstituted, that the Authority and TD&R Licensee act in accordance with any Ministerial declaration issued during the period of suspension.

Section 45F provides for an appeal to the Supreme Court against the making of an order to suspend and reconstitute the IRP process.

Clause 8 amends the Regulatory Authority Act 2011 to enable the provision of such Ministerial powers, in the public interest, as are specified in that Act and in sectoral legislation in relation to a regulated industry sector for which the Minister is responsible.